

108TH CONGRESS
1ST SESSION

S. 136

To amend the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price.

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2003

Mrs. LINCOLN (for herself, Mr. BAYH, Mr. DURBIN, and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expedited Remedy for
5 Persistent Dumping Act of 2003”.

1 **SEC. 2. EXPEDITED REMEDY WHERE PERSISTENT DUMP-**
 2 **ING IS PRESENT.**

3 (a) CHANGE IN PERSISTENT DUMPING PROCE-
 4 DURES.—Section 732(a)(2) of the Tariff Act of 1930 (19
 5 U.S.C. 1673a(a)(2)) is amended—

6 (1) by striking subparagraph (A) and inserting
 7 the following:

8 “(A) INITIATION OF EXPEDITED INVES-
 9 TIGATION.—An expedited antidumping duty in-
 10 vestigation shall be initiated with respect to a
 11 particular class or kind of merchandise that is
 12 subject to an existing antidumping order within
 13 20 days of the request of an interested party
 14 described in subparagraph (C), (D), (E), (F),
 15 or (G) of section 771(9), if the administering
 16 authority determines, from information avail-
 17 able to it, that imports of such class or kind of
 18 merchandise have increased materially from an
 19 additional supplier country, as defined in sub-
 20 paragraph (C), during any 90-day period or
 21 during a longer period as determined by the ad-
 22 ministering authority to be appropriate. The re-
 23 quest shall allege and present supporting infor-
 24 mation that such imports are occurring. The
 25 administering authority, in making a deter-
 26 mination under this subparagraph, shall con-

1 sider the public record of its investigation of
 2 imports of merchandise subject to the existing
 3 antidumping order.”;

4 (2) by striking subparagraph (B) and inserting
 5 the following:

6 “(B) INCREASED MATERIALLY.—The ad-
 7 ministering authority shall consider imports of
 8 merchandise from an additional supplier coun-
 9 try to have increased materially if such imports
 10 have increased by 15 percent or more over the
 11 amount of such imports during a period of com-
 12 parable duration preceding initiation of the
 13 antidumping investigation of imports of mer-
 14 chandise subject to the existing antidumping
 15 order.”; and

16 (3) by striking subparagraph (D) and inserting
 17 the following:

18 “(D) PROCEDURES AND INJURY DETER-
 19 MINATIONS FOR EXPEDITED INVESTIGA-
 20 TIONS.—

21 “(i) Except as provided in this sub-
 22 paragraph, the provisions of subsections
 23 (b)(3), (c)(4), (d), and (e) of this section,
 24 section 733 (b), (d), and (e), section 734
 25 (a), (b), (c), (d), (e), (f), (i), (k), and (l),

1 and section 735 (a), (c), (d), and (e) shall
2 apply to expedited investigations under this
3 paragraph.

4 “(ii) The administering authority shall
5 issue a preliminary determination within
6 90 days of receiving a request for an inves-
7 tigation under subparagraph (A).

8 “(iii)(I) Not later than 45 days after
9 the date on which the request under sub-
10 paragraph (A) is received by the admin-
11 istering authority, the Commission shall
12 determine if there is a reasonable indica-
13 tion of material injury or threat of mate-
14 rial injury as prescribed in section
15 733(a)(1).

16 “(II) The Commission shall make a
17 determination under this clause from rea-
18 sonably available information (including
19 the public record of its investigation of im-
20 ports of merchandise subject to the exist-
21 ing antidumping order).

22 “(iv) If the Commission makes an af-
23 firmative determination that there is a rea-
24 sonable indication of material injury and
25 the administering authority makes an af-

firmative final determination, the Commission shall make a final determination under section 735(b)(1) before the later of—

“(I) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under clause (ii); or

“(II) the 45th day after the day on which the administering authority makes its affirmative final determination under section 735(a).

“(v) An affirmative final determination shall not be made unless the Commission determines pursuant to the factors described in sections 735(b)(1) and 771(7) that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of the subject merchandise and that imports of the subject merchandise are not negligible.”.

SEC. 3. REIMBURSEMENT OF DUTIES.

Section 772(c)(2) of the Tariff Act of 1930 (19 U.S.C. 1677a(c)(2)) is amended—

1 (1) by striking “and” at the end of subpara-
 2 graph (A);

3 (2) by striking the period at the end of sub-
 4 paragraph (B) and inserting a comma; and

5 (3) by adding at the end the following new sub-
 6 paragraphs:

7 “(C) an amount equal to the dumping
 8 margin calculated under section 771(35)(A),
 9 unless the producer or exporter is able to dem-
 10 onstrate that the importer was in no way reim-
 11 bursed for any antidumping duties paid, and

12 “(D) an amount equal to the net
 13 countervailable subsidy calculated under section
 14 771(6), unless the producer or exporter is able
 15 to demonstrate that the importer was in no way
 16 reimbursed for any countervailing duties paid.”.

17 **SEC. 4. APPLICATION TO CANADA AND MEXICO.**

18 Pursuant to article 1902 of the North American Free
 19 Trade Agreement and section 408 of the North American
 20 Free Trade Agreement Implementation Act, the amend-
 21 ments made by this Act shall apply with respect to goods
 22 from Canada and Mexico.

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